



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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## HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

**August 22, 2016**

### **Attendance:**

Board Members: Lynn Moore, Chair  
Rickey Bauer, Vice Chair  
Jamie Brown  
Mickey Day  
Howie Feaga  
Ann Jones  
Denny Patrick

Public: Pat Pitrone, RE/MAX Advantage Realty Westminster  
Bruce Pickett, Trustee, Stanley M. Pickett Revocable Trust  
Mark Pickett, Stanley M. Pickett Revocable Trust

Staff: Joy Levy, Administrator, Agricultural Land Preservation Program  
Amy Gowan, Deputy Director, Department of Planning & Zoning  
Mitch Ford, Planning Technician, Agricultural Land Preservation Program

Ms. Moore called the meeting to order at 7:10 p.m. and conducted introductions.

### **Action Items**

#### **1) Minutes from the meeting of July 25, 2016**

Ms. Moore called for the approval of the June 25, 2016 meeting minutes. Mr. Feaga moved to approve. Ms. Jones seconded the motion, which passed unanimously.

#### **2) Request for Recommendation on Easement Acquisition, Stanley M. Pickett Revocable Trust property, 109.86 acres (ALPB)**

Ms. Levy read the staff report, stating that the property is located at 755 East Watersville Road in Mount Airy. The farming operation is primarily row crops and hay. According to the Soil Conservation District, there is a current Soil Conservation and Water Quality Plan (SCWQ) that is not fully implemented. There is a high concentration of preserved land within a mile of the property. The farm is rented out and there is a very high percentage that is in active agricultural use. The property is improved with two dwellings, a 1998 rancher and the original farmhouse, which is in tear down condition. There is no Green Infrastructure on the property.

Ms. Levy called the Board's attention to the attached application materials, including the standard map set (aerial, soils, and land preservation), and property score sheet. With no further remarks, Ms. Levy recommended approval of the easement acquisition.

Ms. Moore called for questions and comments. Ms. Jones complimented the property for its prime soils, large size, and traditional farming operation. Mr. Feaga asked about the 20 points related to tenant house rights. Ms. Levy explained that there is currently one tenant house on the property, leaving the potential for three additional tenant houses. She stated that the landowners have decided to relinquish two of the three tenant house rights. As a result, they receive 20 extra points in the scoring and will have the potential for one more tenant house. She stated that the property owners have elected to keep the parcel division rights, which explains why they have zero points in that category.

Ms. Moore made a request to the landowner to fully implement the partially completed SCWQ Plan in order to proactively safeguard the farm's soils.

With no further questions, Ms. Jones moved to approve. Mr. Feaga seconded the motion, which passed unanimously.

Mr. Bauer inquired as to whether a creditor can put a lien on an agricultural preservation property. Ms. Jones stated that a subordination agreement must be completed by any lienholder before settlement on the ag easement. Ms. Levy agreed and noted that this establishes the easement's superior position in title should a property foreclose. She went on to state that the Pickett family is hoping to sell the farm before the end of 2016, and that the easement agreement will be with the future owner.

**2a) Motion to permit staff changes to easement acreage based on the existing cell tower on the Pickett property without the Board's approval**

Mr. Patrick pointed out that there is an existing cell tower on the Pickett property, and inquired whether this would have an impact on the total easement acreage. Ms. Levy stated that she had missed this information on the application and that the existing tower site would most likely have to be excluded from the easement. She noted that typically, the easement is already in place and then an owner requests permission to have a tower, in which case there is a specific provision in the Ag Code that allows for the release of up to one acre for what is considered a public interest use. She indicated that she would speak to the ALPP attorney to confirm whether an existing tower on an incoming easement property needs to be excluded up front. If so, she stated that the acreage would need to be recalculated and the score sheet would need to be revised.

Ms. Jones introduced a motion to permit staff to revise the total easement acreage to account for the existing cell tower site on the Pickett property, without the need for the Board's approval. The motion was seconded by Mr. Feaga, and passed unanimously.

**Discussion Items**

**1) Program Updates:**

**1a) Ag Board News**

Mr. Ford circulated a new handout for the Board entitled "*Ag Board News*". He stated that this one-page document will serve as a newsletter for the ALPB, providing important program updates for each meeting. *Ag Board News* will contain recent news about the ALPP, relevant legislative items and agricultural community events. For the August issue, *Ag Board News* highlighted recent property acquisitions into the Program since the cycle began in 2013.

Ms. Moore praised the newsletter for providing a beneficial map showing recent acquisitions. She noted that this type of map could prove useful in encouraging other farmers to come in to the ALPP. Ms. Levy remarked that there are approximately 10 to 15 properties that have been scored, but have not applied to the Program. Ms. Levy stated that she would reach out to these landowners to see if perhaps they are still interested. Ms. Jones added that it would be advantageous to send program information out to all the remaining uncommitted property owners, as a way to boost interest in agricultural preservation across the county.

### **1b) Analyzing the ALPP**

Ms. Moore initiated a discussion regarding several aspects of the ALPP, which was inspired by her experience on the Mulch Task Force. She stated that there was a lot of misunderstanding amongst Task Force members about the Program and she would like to take a proactive approach in ensuring that the Board and the County are on the same page. Ms. Moore raised three key questions to formulate the conversation:

- 1) What rights does the County purchase when a property comes into the ALPP?
- 2) Where does the funding come from for the ALPP?
- 3) What does the future hold for the ALPP?

Ms. Moore stated that as spokespeople for the farming community, the Board members are often questioned about various issues pertaining to the ALPP, and she wants to be able to accurately and adequately respond.

### ***Rights Purchased by the County***

Ms. Levy distributed an analysis that Ms. Moore had requested comparing certain language within the Deeds of Easement (DOEs) over time. The two DOE sections pertained to the development rights that are relinquished when a property owner enters the ALPP, and also how agricultural uses are defined. Ms. Levy stated that the primary relinquished right is to develop the property for purposes other than agricultural uses, which are generally described in the DOE, but are more specifically enumerated in Section 106.1 of the Zoning Regulations (ZRs). Ms. Levy summarized that the language itself has remained fairly consistent over the years, even though the DOE form differs stylistically.

Ms. Moore inquired if the DOEs are revised when changes are made to the permitted uses. Ms. Levy explained that the DOEs are not amended, but revisions and updates to the ZRs govern the scope, scale and conditions under which certain uses can occur. Ms. Moore then asked if the DOE is considered updated when changes are made to the ZRs. Ms. Levy stated that the ZRs expand upon the DOE language.

Mr. Day asked if the County can add or restrict a use. Ms. Levy stated that either is a possibility, but that over the course of the Program's history, the overall direction has been to increase the number and types of uses available to farmers to help them stay economically viable. She noted that during the Comprehensive Rezoning process, which occurs every ten years, staff attempts to examine trends in farming so that the new uses that are added to the ZRs include not only what farmers are currently doing, but what they may be transitioning into in the future. She noted that it is also an opportunity to add activities the farmers are already doing that are new since the last Comp Zoning update, using Community Supported Agriculture as an example. She noted that it is rare to have a use added to the ZRs and then subsequently prohibited, like what happened in the mulching situation.

### ***Program Finances***

Ms. Moore noted that she's not sure how the Program is funded, and she believes there are misconceptions in the non-farm residential community as well. She expressed her concern that if the perception is that tax dollars fund the program, then non-farm neighbors will believe they have partial ownership of preserved properties and

can dictate how those properties are used. She noted that there were heated discussions on this topic during the Mulch Task Force meetings and she felt at a disadvantage without full knowledge of the facts.

Ms. Levy clarified by stating the Program has been funded by a portion of the local Transfer Tax since its inception in 1984. The ALPP receives a quarter of the 1% tax on any property sale, which includes residential, commercial, or industrial parcels throughout the county. Ms. Levy indicated that the remainder is divided up between other programs/agencies, but she wasn't sure of who gets what. Ms. Jones requested that she investigate that and report back.

Mr. Feaga commented that the transfer tax was originally created to make the County a better place to live. Ms. Levy added that the Program's funding system was a very innovative approach for preserving farmland at the local level. She noted that many other Maryland counties only participate in MALPF, due to the lack of a local dedicated funding source. Ms. Levy noted that Howard's funding mechanism is development paying for preservation. Ms. Jones commented that Howard County has a lot to be proud of when it comes to farmland preservation.

Mr. Brown asked about the origins of the Installment Purchase Agreement (IPA). Ms. Levy responded that from 1984 to 1989, payment was given in cash up front, and then the IPA began in 1989. This structure became a very effective method for both the County and participating landowners, since the funding was distributed over time and allowed the County to leverage funds into the future while acquiring easements in the present.

### ***Future of the Program***

Mr. Bauer expressed concern about neighbors trespassing on his land, stating that they don't understand that it's private property. He reiterated Ms. Moore's opinion that these same people feel entitled to have a say as to how private property is used. Ms. Levy recognized that there is a disconnect between residential neighbors and farmers. However, there have been numerous educational programs to help address this issue, such as the Howard County Fair, the Farm City Celebration, and Farm Academy. Mr. Brown noted that there needs to be a diverse and varying attendance at these education events in order for them to be truly effective.

Ms. Levy asked the Board what tactic should be taken for establishing an agricultural educational dialogue with the community, and who should be responsible for this effort (i.e. the County or farmers). Mr. Brown stated that the homeowner associations should be approached first, and that both the County and the farmers should undertake the engagement. He noted that programs like the Farm Academy are a good start, but the audience tends to be farmer friendly already. The people that need the outreach the most aren't getting it.

Ms. Moore commented that it would be proactive to use newspaper and social media outlets as a way to improve communication about agricultural preservation. Ms. Gowan stated that the Kittleman Administration is working on improving these communication issues through the creation of the new Agricultural Liaison position, and an Agricultural Cabinet. The new position and cabinet will be a beneficial approach in unifying all of the key players and agencies involved with agriculture in the County.

Ms. Moore moved to adjourn the meeting, which was seconded by Ms. Jones and carried unanimously. The meeting adjourned at 8:28 pm.

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Joy Levy, Executive Secretary  
Agricultural Land Preservation Board